

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-914

January 13, 2004

MAINE NATURAL GAS CORPORATION
Proposed Tariff Revisions for Index and
Fixed Price Option Rates and to Implement
Gas Cost Reconciliation Mechanism
(35-A M.R.S.A. §§ 307 and 4706)

ORDER APPROVING
CHANGES TO INDEX
PRICE OPTION RATE
FORMULA

I. SUMMARY

We approve changes to Maine Natural Gas Corporation's (MNG) Index Price Option (IPO) rates, as proposed, for effect on January 13, 2004.

II. PROCEDURAL HISTORY

On December 12, 2003, pursuant to 35-A M.R.S.A. §§ 307 and 4706 and Chapter 120 of the Commission's Rules, Maine Natural Gas Corporation (MNG) filed proposed revisions to its Index Price Option (IPO) and Fixed Price Option (FPO) rate schedules, pages 20.0 and 20.1. MNG is seeking authorization to modify its IPO and FPO rate schedules as follows: 1) to reduce the offered time periods for its FPO offerings, which range from 3- to 24- months, to 6- and 12- months and to change the customer enrollment periods from monthly to semiannually in September and March; 2) to remove the heating oil component in its commodity pricing formula and to set commodity price on a 100% gas plus upstream transportation index to better reflect natural gas costs; and 3) to initiate a gas cost reconciliation, or "true up," mechanism so that it may recover its actual gas costs associated with its IPO and FPO customers. MNG argues that these changes are necessary due to changed price levels and volatility in the gas markets since its initial rate plan was approved. MNG does not seek to include gas costs associated with its negotiated special contracts in the reconciliation.

MNG asked for a waiver of the 30-day statutory time period established in 35-A M.R.S.A. §307 to allow an earlier effective date for the revised IPO of January 1, 2004 to avoid incurring costs resulting from high gas market prices during its high volume sales months of January through March. While MNG also sought to have gas rates reconciled as of January 1, 2004, our investigation of this matter is still pending.

MNG proposes that the revised FPO rate become effective on March 1, 2004 "to avoid a gap in the availability of the FPO rate."

The Commission issued Notice of this proceeding on December 19, 2003 and established an intervention date of January 6, 2004. The Staff issued Advisor's Data Request No. 1 on December 19, 2003.

At the request of the Hearing Examiner, Maine Natural Gas provided notice to all general service customers by separate mailing on December 22 indicating that MNG's request for rate changes and gas cost reconciliation was pending in Docket No. 2003-914 and that it sought implementation of a new formula for its IPO rate for effect January 1, 2004. The letter also advised customers to contact the Commission to participate in, or learn more about, this proceeding.

Because of the immediacy of the proposed implementation date for the proposed revised IPO, the Staff held a preliminary conference with MNG and OPA on December 23, 2003 to discuss with MNG the details of its filing and its requested implementation schedule. The Hearing Examiner granted MNG's request for protective order from the bench, and portions of the conference were held *in camera*. The Commission initiated deliberations on this matter on December 31, 2003 but recessed until January 12, 2004 to allow the participation of any customers who might wish to intervene.

An initial hearing among all parties and proposed interveners was held on January 6, 2004. Timely petitions to intervene were filed by the Office of the Public Advocate (OPA) and Bangor Gas Company (BGC). The Hearing Examiner granted intervention for OPA and BGC. BGC was granted discretionary intervention and is restricted to receiving only non-confidential information. In addition, the parties explored and discussed MNG's proposal and discussed scheduling issues.

III. DISCUSSION

We consider here only MNG's changes to its IPO rate setting formula as we require additional time to investigate its proposed reconciliation and changes to its Fixed Price Option (FPO).

MNG seeks approval to base its IPO rate solely on the NYMEX gas futures, rather than an average of natural gas and heating oil and to replace the transportation adder, or basis, that is currently set in its rates with the fixed prices they have contracted for this winter. In this way, MNG will price its gas commodity to IPO customers closer to its actual costs. These changes are warranted, MNG maintains, due to changes that have occurred in the gas market during the nearly five years since it implemented its IPO rate formula.

On December 17, 1998, the Commission approved a rate plan for MNG that included a 5-year base distribution rate freeze, which expires March 31, 2004. *Central Maine Power Company, Petition for Approval to Furnish Gas Service In and To Areas Not Currently Receiving Natural Gas Service*, Docket No. 96-786, Order Approving Rate Plan (Dec. 17, 1998). The order exempts upstream capacity costs and gas costs from the rate freeze, allowing MNG to seek a rate increase in the former pursuant to 35-A M.R.S.A. §307 if warranted. The Order leaves open the question whether the Company could seek a change to its gas pricing formula or non-reconciling aspect within the rate freeze period, though it does not appear to prohibit it. Order at 3-6. In any event, with

the expiration of the rate freeze rapidly approaching, this question takes on less significance. The Order explicitly contemplated that an adjustment for upstream transportation costs such as the basis adjustment requested here would be consistent with the rate plan. It also stated that this would be done pursuant to Section 307, which requires that rates can only be changed upon 30 days notice, unless, for good cause shown, the Commission allows a shorter period.¹

According to MNG, the original decision to include the cost of oil in the commodity price was to help assure customers and prospective customers that gas would be reasonably priced. MNG states that its customers do not, in fact, see that as a significant advantage and often find the pricing confusing. Further more, oil has generally been more expensive than gas so the effect of including oil in the formula has been to increase the IPO (and FPO) prices. In 2003, including oil in the calculation increased the IPO rate by roughly \$0.50 per Dth on average.

MNG wants to set commodity price on a 100% gas plus upstream transportation index to better reflect natural gas costs. The basis is added to the end of month gas market commodity price to determine the IPO rate. Currently, IPO rates contain a fixed amount of \$0.451 that was set at the time MNG's rate plan was approved. At that time, this amount reasonably reflected the market price for this rate element. Replacing this rate component with either MNG's contract price for this winter or an index price reflecting current market prices will increase this element. MNG maintains that the amount currently included is inadequate to compensate for the actual basis differential between Henry Hub and Dracut this winter, the applicable market trading points. MNG seeks to avoid significant losses that it incurred as a result of its current gas pricing formula in 2003 when natural gas prices rose dramatically for part of the high usage winter months.

We find MNG's proposed changes to its IPO formula reasonable and should result in rates that better match the Company's actual costs. Accordingly, we approve them for effect on January 13, 2004.

¹ We declined to approve the IPO formula changes on less than statutory notice at our December 31, 2003 deliberations because of insufficient time for Notice of this proceeding to customers. In addition, MNG had not yet provided full information about its past years of experience with this formula. Furthermore, we did not find MNG's reasons for requesting approval on less than statutory notice to constitute good cause. MNG maintains that it was delayed in making its filing by the need to refine its reconciliation formula. Chairman Welch sent Maine's local distribution companies a letter last May inviting them to propose pricing options to address issues of gas market volatility. MNG met with Staff in early September to discuss this. The letter cautioned utilities to allow significant time for consideration of proposals such as this. Furthermore, MNG signed its basis contract in October, at which point the precise values for the basis adjustment they now propose became fixed, giving MNG time to make a filing within the notice provisions of Section 307.

Dated at Augusta, Maine, this 13th day of January, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.